

No. 4637-4Lab-74/19085.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Haryana, Faridabad in respect of the dispute between the workmen and the management of M/s Vickers India (P) Ltd., Mathura Road, Faridabad.

BEFORE SHRI O. P. SHARMA, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL,  
HARYANA, FARIDABAD

Reference No. 118 of 1973

between

The workmen and the management of M/s Vickers India Private Ltd., Mathura Road, Faridabad

Present:

Shri Ashok Kumar authorised representative along with the concerned workmen Sarvshri Kishan Lal, T.C. Panchal, Raj Kumar Sharma, Jai Pal Singh, Bhopal Mahto.

Shri D. P. Bhambri for the management.

#### AWARD

The workmen of M/s Vickers India Private Ltd., Mathura Road, Faridabad had raised a demand for grant of sick leave as provided in the Punjab Industrial Establishments (National and Festival Holidays and Casual and Sick Leave) Act, 1965 which was not accepted by the management. This gave rise to an industrial dispute which was referred for adjudication to this Tribunal by order No. ID/FD/73/268/31407, dated 2nd July, 1973 of the Governor of Haryana in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 with the following terms of reference:—

Whether the workers should be granted sick leave as provided in the Punjab Industrial Establishments (National and Festival Holidays and Casual and Sick Leave) Act, 1965, over and above the sickness benefit provided under the Employees' State Insurance Act? If so, with what details?

Usual notices were given to the parties who have arrived at an amicable settlement with respect to as number of demands including the demand, the subject-matter of the present reference, as per terms and conditions given in the memorandum of settlement dated 9th May, 1974 Exhibit M-1 which is signed by all the workmen including Shri Ashok Kumar their authorised representative. Shri V.C. Hoon, Works Manager, has signed the settlement on behalf of the management. Statements of the authorised representatives of the parties have been recorded. In view of the various other demands of the workmen having been acceded to by the management the workmen concerned have given up the demand, the subject-matter of the present reference, regarding sick leaves.

In view of the above, no further proceedings are called for in the case and the award is made as per terms and conditions given in the memorandum of settlement Exhibit M-1, which shall form part of the award. In the circumstances, there shall be no order as to costs.

O. P. SHARMA,  
Presiding Officer,  
Industrial Tribunal, Haryana,  
Faridabad

Dated 20th May, 1974.

No. 453, dated 23rd May, 1974

Forwarded (four copies) to the Secretary to Government Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

O. P. SHARMA,  
Presiding Officer,  
Industrial Tribunal, Haryana,  
Faridabad

Dated 20th May, 1974

#### MEMORANDUM OF SETTLEMENT

(Under the Industrial Disputes Act, 1947 and the Rules thereunder)

Name of Parties:

M/s Vickers India Private Limited, 14/2 Milestone,  
Mathura Road, Faridabad.

and

Their Workmen

Mr. V. C. Hoon, Works Manager.

All the workmen signatory to the settlement.

Representing Employers:

Representing Workmen:

## SHORT REGITAL

The workmen had submitted certain demands. All the demands were rejected by the Government of Haryana excepting Sick Leave which has been referred for adjudication to Industrial Tribunal, Haryana, and has been numbered as Case No. 118 of 1973. The workmen once again approached the Management to arrive at an all-inclusive long term settlement including the case pending adjudication. The matter was discussed between parties from time to time and finally a settlement was reached on 9th May, 1974, on the following terms :—

## TERMS OF SETTLEMENT

## 1. Wages :—

- (a) It is agreed that the present salary/wages be called the basic salaries and grades/scales of pay for the various workers would be as under —

## I. Workers :

1. Unskilled	.. Rs 125—6—155—EB—7—225
2. Semi-Skilled II	.. Rs 135—7—170—EB—8—250
3. Sem-Skilled I	.. Rs 140—8—180—EB—9—270
4. Skilled II	.. Rs 150—9—195—EB—10—295
5. Skilled I	.. Rs 200—10—250—EB—12—370
6. Highly Skilled II	.. Rs 250—12—310—EB—15—460
7. Highly Skilled I	.. Rs 275—15—350—EB—18—530
8. Special	.. Rs 300—15—375—EB—20—575

## II. Clerical/Stenos. Reps :

1. Junior	.. Rs 200—10—250—EB—12—370
2. Intermediate	.. Rs 250—12—300—EB—15—460
3. Senior	.. Rs 300—15—375—EB—20—575

- (b) It is agreed that the wages and/or grades and/or designations of the following workers be revised as follows —

Serial No.	Name	Designation	Wages	Grade
1	2	3	4	5
<b>WORKERS</b>			Rs	
1	Kishan Lal	Turner (H/S-II)	310	I(6) as in (a) above
2	T.S. Panchal	Leading Hand	385 Plus Rs 5 allowance	I(6) Ditto
3	Jaipal Singh	Leading Hand	355 plus Rs 5 allowance	I(6) Ditto
4	Kishan Chand	Grinderman (SK-I)	240	I(5) Ditto
5	P.J. Pillai	Storeshand (Sr.)	168	I(2) Ditto
6	B.D. Punu	Cap. Operator (S/S-II)	149	I(2) Ditto
7	Cha an Singh	Assy. Hand (S/S-II)	149	I(2) Ditto
<b>ADMINISTATION</b>				
8	Hem Raj	Sweeper	149	I(1) Ditto
9	N.D. Mothra	Accounts Clerk	274	II(1) Ditto
10	B.S.D. Nair	Office Peon	137	I(1) Ditto

(c) It is agreed to introduce a scheme of Dearness Allowance linked with the consumer price index number for Faridabad on the basis of State Series 1966-100. The basic salaries mentioned in (a) above are to be taken at the consumer price index number of 172. (This is an average for the period July to December, 1973). The rate of neutralisation is fixed at 0.50 paise per point of rise or fall in the average of the consumer price index number every half year. Adjustment in the amount of dearness allowance will be made every year on 1st January and 1st July taking the average rise or fall in the consumer price index number for the months of January to June for adjustment on 1st of July and July to December of the preceding year for adjustment on 1st of January. The first adjustment in accordance with this scheme will be made on availability of the consumer price index number for the period January to June 1974. As a special case this index number will also apply to the broken period from the date of commencement of this settlement (i.e. 1st March, 1974) to 30th June, 1974.

(d) D.A. would be admissible to all workers drawing a basic salary upto and including Rs 575 only and is subject to a maximum D.A. of Rs 150

2. The workmen withdraw the Case No. 118 of 1973 presently pending before the Industrial Tribunal and do not claim any relief in that adjudication.

3. The workmen agreed not to raise any demand involving any financial burden or implication on the Company during the period this settlement is in operation.

3.A. It is agreed that the Company will provide to its workers for the use in factory, two sets of uniforms consisting of Cotton Trousers and Bhushirts only. The washing of these uniforms will be done by the Company. Replacement of the uniform, its design and colour etc. would be at the sole discretion of the Company.

4. This settlement is a settlement under Section 2 (p) of the Industrial Disputes Act, 1947, and a copy of this settlement would be filed before the Industrial Tribunal in Case No. 118 of 1973 as well for an award.

5. It is agreed that this settlement would remain in operation for a minimum period of 3 years with effect from 1st March, 1974, and shall continue to remain affective thereafter until it is terminated by either party in accordance with law.

Signed this Ninth Day of May One Thousand Nine Hundred Seventy Four at Faridabad.

For and on behalf of Workmen of Vickers  
India Private Ltd., Faridabad

For and on behalf of the Management of Vickers  
India Private Limited, Faridabad

1. T.S. Panchal
2. Jaipal Singh
3. Kishan Chand
4. Kul Bahadur Thapa
5. Ajit Singh Rana
6. Gopal Mahto
7. B.K. Sharma
8. Waryam Singh
9. Raj Kumar Gupta
10. B.D. Punj
11. Bhajan Lal
12. Kishan Lal
13. Budh Singh
14. Ved Pal
15. Yad Ram Saini
16. Amar Singh
17. Chander Deo
18. Sajjan Singh
19. Raj Kumar Sharma
20. Mahak Singh
21. Charan Singh
22. N.D. Mothra
23. Hem Raj

V. C. HOON,  
Works Manager.

Witnesses—

1. Ashok Kumar
2. D.P. Bhambri

Copy per registered post to :—

1. The Secretary to the Government of Haryana,  
Department of Labour,  
Chandigarh
2. The Labour Commissioner, Haryana,  
Department of Labour,  
Chandigarh
3. The Labour-cum-Conciliation Officer,  
Department of Labour,  
Government of Haryana,  
Faridabad.

No. 4633-4L-74/19087.—In pursuance of the provisions of Section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947) the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Haryana, Faridabad in respect of the dispute between the workmen and the management of M/s Rapid Cast Foundries, Plot No. 12, N.I.T., Faridabad :-

BEFORE SHRI O.P. SHARMA, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL, HARYANA,  
FARIDABAD

Reference No. 36 of 1974

between

THE WORKMEN AND THE MANAGEMENT OF M/S RAPID CAST FOUNDRIES, PLOT No. 12,  
N.I.T., FARIDABAD

Present :—

Nemo, for the workman.

Shri R.C. Sharma, for the management.

#### AWARD

The workmen of M/s Rapid Cast Foundries, Plot No. 12, N.I.T., Faridabad had raised certain demands regarding dearness allowance, supply of seasonal uniforms, fixation of grades and scales of pay and issuance of appointment letter to the workmen. The management did not accept these demands. This gave rise to an industrial dispute. The workmen then gave the demands notice dated 22nd September, 1973 which forms part of the present reference. Conciliation proceedings were initiated which, however, ended in failure.

On receipt of the failure report from the Conciliation Officer, the Governor of Haryana, in exercise of the powers conferred by clause (d) of sub-section (1) of Section 10 of the Industrial Disputes Act, 1947, referred the above dispute for adjudication to this Tribunal,—vide order No. ID/FD/73/552/7317, dated 21st March, 1974, with the following terms of reference :-

1. Whether the workmen are entitled to the grant of dearness allowance ? If so, at what rate and with what details ?
2. Whether the workmen are entitled to seasonal uniforms ? If so, with what details.
3. Whether the grades and scales of pay of the workmen be fixed ? If so, with what details ?
4. Whether the appointment letters be issued to the workmen ? If so, with what details ?

Usual notices were given to the parties. None of the workmen concerned has turned up nor their union leader Shri Nazir Mohamad who had given the demand notice leading to the present reference.

On behalf of the management it has been pleaded that an amicable settlement has been arrived at with the workmen. Statement of Shri R. C. Sharma authorised representative of the management has been recorded. According to him the workmen drawing Rs. 150 or more have been given an increase of 12 and the workmen drawing less than Rs. 150 have been given an increase of Rs. 8 P. M. in their wages with effect from 1st January, 1974 and they are satisfied with this increase and have, therefore, given up demands Nos. 1, 2 and 3, as per their letter Ex. M-1, which is signed or thumb-marked by all the workmen in the factory. With regard to remaining demand No. 4 it has been stated that the management has no objection to issuing of appointment letters to the workmen. Shri R. C. Sharma has also proved an earlier settlement brought about between the workmen and the management under section 12(3) whereby the grades of skilled, semi-skilled and unskilled workers were fixed,—vide copy of the settlement Ex. M-2.

In view of the facts stated above, no further proceedings are called for in the case and the award is made in terms of the above settlement arrived at between the parties. The workers drawing Rs. 150 or more shall continued getting an increase of Rs. 12 per mensem in their wages with effect from 1st January, 1974 while those drawing less than Rs. 150 will get the increase of Rs. 8 per mensem in their wages with effect from the same date. The management shall issue appointment letters to the workmen as agreed. The rest of the demands having been given up by the workers they are not entitled to any relief in respect thereof. In the circumstances, there shall be no order as to costs.

Dated 13th May, 1974.

O. P. SHARMA,  
Presiding Officer,  
Industrial Tribunal, Haryana.

No. 451, dated 20th May, 1974

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Department, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

Dated 13 May, 1974.

O. P. SHARMA,  
Presiding Officer,  
Industrial Tribunal, Haryana,  
Faridabad.

The 17th June, 1974

No. 4862-4-Lab-74/17604.—In pursuance of the provisions of Section 17 of the Industrial Disputes Act, 1947 (Act No. IV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Labour Court, Haryana, Rohtak in respect of the dispute between the workmen and the management of M/s B.E. Pump, Bahadurgarh:—

BEFORE SHRI O.P. SHARMA, PRESIDING OFFICER, LABOUR COURT, HARYANA, ROHTAK.

Reference No. 35 of 1973

between

SHRI RAM NAIK SINGH AND THE MANAGEMENT OF M/S B.E. PUMP, BAHADURGARH.

Present—

Shri Onkar Parshad, for the workman.  
Shri A.K. Seth, for the management.

#### AWARD

Shri Ram Naik Singh concerned workman was in the service of M/s B.E. Pump, Bahadurgarh. His services were terminated by the management on 9th January, 1973. Feeling aggrieved, he gave the demand notice dated 11th January, 1973 requesting the management to reinstate him with continuity of his previous service with full back wages. He did not receive any reply to his demand notice. This gave rise to an industrial dispute. The matter was taken up for conciliation which also ended in failure.

On receipt of the failure report from the Conciliation Officer, the Governor of Haryana, in exercise of the powers conferred by clause (c) of sub-section (i) of Section 10 of the Industrial Disputes Act, 1947 referred the dispute for adjudication to this court,—vide order No. ID/RK/225-A-72/17067-71, dated 17th April, 1973, with the following term of reference:—

“Whether the termination of services Shri Ram Naik Singh was justified and in order? If not, to what relief is he entitled?”

Usual notices were given to the parties and they put in their respective pleadings. The management contested the claim of the workman mainly on the ground that his appointment was on casual basis and he being the junior most, his services were lawfully terminated and as such he was not entitled to any relief. The workman, on the other hand, controverted the above allegation of the management and reiterated his claim for reinstatement and payment of back wages as earlier raised through the demand notice which forms part of the present reference. In the replication filed in the case, it was further urged that there were about 2500 workers in the factory but the management was not willing to provide any job to the present claimant although he was a highly skilled worker. It was further stated that one Shri Manohar Lal Sardana was also in the highly skilled grade and had left service and the present workman could be accommodated in his place without any difficulty. With the above allegation in brief, it was contended that the termination of services of the workman brought about by way of retrenchment or otherwise was illegal and unjustified and he was fully entitled to the relief asked for.

From the pleadings of the parties, the issue that arose for determination in the case was precisely the same as per the term of reference stated above.

On behalf of the management, Shri C. Parshad Jha, Works Manager, has come into the witness-box and proved certain documents including the application form for appointment of Shri Ram Naik Singh Ex. M.1, the endorsement on the back of this form Ex. M.2, the termination letter dated 4th January, 1973, Ex. M.3, letter dated 13th March, 1974 of the Bahadurgarh Chamber of Commerce and Industries stating that there was 50 per cent cut in Electric Power Supply at Bahadurgarh during the period from October, 1972 to March, 1973, Ex. M.4. According to the statement of this witness, the present workman had worked only for 5 months as a Casual worker and on account of 50 per cent cut in the Electric Power Supply during the period in question, his services had to be terminated. He has further deposed that there were already two highly skilled workers in the factory before the appointment of Shri Ram Naik Singh and since they had absented themselves from duty because of some layout trouble, the appointment of Shri Ram Naik Singh had to be made temporarily on casual basis and when those two workers had reported for duty after some time, the present workman had been rendered surplus. The management, however, still wanted to accommodate him and did not dispense with his services forthwith in the expectation that the Electric Power Supply might improve which unfortunately did not and, therefore, there was no alternative but to terminate his services. In cross-examination, he has admitted that Shri Mohar Lal Sardana Supervisor who was in service since 3rd September, 1971, had submitted his resignation on 26th May, 1973 and in his place Shri S.C. Sharma had been appointed as a Supervisor in the factory.

Shri Ram Naik Singh the concerned workman has made his own statement and reiterated his claim for reinstatement and payment of back wages. While admitting that he had submitted the application form Ex. M.1 for appointment he has denied his signatures on the endorsement Ex. M.2 which shows the nature of his appointment as a Casual worker. He has further stated that he was a permanent employee of M/s Shyyaram Kumar Engineering Works (P) Ltd., New Delhi. According to him his services had been terminated because of his union activities and because of his refusal to keep the management posted with the activities of the union in a secret manner. In cross-examination, he has admitted that he can read and write English and the particulars filled in the application form Ex. M.1 are correct. He has, however, denied that his name was entered in the register of casual workers for marking attendance and for payment of wages. He has placed on record two documents, letter dated 6th October, 1972, Ex. W.1 addressed to him by M/s Shyyaram Kumar Engineering Works (P) Ltd., New Delhi and copy of the conciliation proceedings Ex. W.2.

The case has been fully argued on both sides and I have given a very thoughtful consideration to the facts on record. According to the averment made in the replication filed on behalf of the workman concerned, there were 2,500 workers in this factory. In para No. 3 of the written statement, the management has alleged that the services of this workman were terminated by way of retrenchment as he was the junior most of the highly skilled workers. The workman has also questioned the validity of the retrenchment as would be clear from the last paragraph of the replication filed in the case. If the above version of the parties had to be believed, it is clearly a case of retrenchment and the number of workman in the factory being more than 100 (2,500) as stated by the workman in the replication) the reference of the dispute should have been made to the Industrial Tribunal and for that reason the dispute could not validly be referred for adjudication to this court as per the Second and Third Schedule read with the proviso to the section 10 of the Industrial Disputes Act, 1947. So, if the workman concerned wants to challenge the retrenchment of his services on any ground of violation of the relevant provisions of the law, the reference of the dispute should be made to the Industrial Tribunal.

Even otherwise, the present workman has no well founded case to question the termination of his services by the management. It has come in evidence of the management that there were already two highly skilled persons working in the factory who had absented themselves from duty on account of some labour trouble and in the circumstances, a stop gap arrangement had to be made, so that the work in the factory could go on. Those two workers who were definitely senior to the present workman had reported for duty after some time with the result, that the present workman became surplus. The management, however, still wanted to accommodate him and did not dispense with his services forthwith which was, however, not possible because of the 50 per cent cut in the Electric Power Supply at Bahadurgarh from October, 1972 to March, 1973, as is clear from the letter dated 13th March, 1974, of the Bahadurgarh Chamber of Commerce and Industries Ex. M.4.

The learned representative of the workman has invited my attention to the letter dated 6th October, 1972, Ex. W.1 and it is stated that he was working as a permanent employee and had joined service in the present establishment on this understanding that he would be kept as a permanent and regular employee. I have gone through this letter. It does not in any way, advance the claim of the workman. From the pursual of this letter, it is clear that this workman had remained absent from duty from that concern without sanction of his leave and he had been directed to report for duty there immediately, failing which his name was liable to be struck off the rolls. Moreover, it is clear from the very terms of his appointment as per endorsement Ex. M.2 on the applications form for his appointment which was submitted by him that his appointment was only on casual basis. He has no doubt, denied his signatures on this endorsement and stated that the terms and conditions of his employment were not explained to him. He is a highly skilled worker having worked in another establishment and admits that he can read and write English. The application Ex. M.1 is signed by him and he has admitted that it was correctly filled up. In the circumstances, he can not be believed to say that he did not know that his appointment was on casual basis. As already pointed out, there being already two highly skilled workers in the factory who had reported for duty after remaining absent for some time due to some labour trouble and there being a 50 per cent cut in the Supply of Electric Power at Bahadurgarh during the period in question, the management was not in a position to retain him in service any longer.

Still another argument has been advanced on behalf of the workman that when Shri Manohar Lal Sardana had submitted his resignation, the present workman could be appointed in his place without making any fresh recruitment. This contention is also devoid of force. Shri Sardana was a qualified Engineer who had interviewed the present workman at the time of his appointment on casual basis. The person who has been appointed in his place as Supervisor is also stated to be an Engineer. The present workman does not possess the requisite qualification to entitle him to appointment against the post of the Supervisor which fell vacant after Shri Sardana had left service. Had he been qualified for the said post it is not believable that he would have joined service on casual basis, in the circumstances discussed above.

So, judged from whatever angle and for the reasons aforesaid, I do not find anything wrong with the termination of the services of the present workman by the management which is held to be justified and in order and, in the result, he is not entitled to any relief by way of reinstatement and payment of back wages. The award is made accordingly but without any order as to costs.

Dated 18th May, 1974.

O.P. SHARMA,

Presiding Officer,  
Labour Court, Haryana, Rohtak.

No. 1289, dated 27th May, 1974

Forwarded (four copies) to the Secretary to Government of Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

O.P. SHARMA,

Presiding Officer,  
Labour Court, Haryana, Rohtak.

No. 4860-4Lab-74/19576.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Labour Court, Haryana, Rohtak, in respect of the dispute between the workmen and the management of M/s Chanderpur Works, Radaur Road, Yamuna Nagar :—  
Tehsil and District Karnal.

BEFORE SHRI O.P. SHARMA, PRESIDING OFFICER, LABOUR COURT, HARYANA,  
ROHTAK

Reference No. 231 of 1972

*Between*

SHRI MAM CHAND AND THE MANAGEMENT OF M/S CHANDERPUR WORKS,  
RADAUR ROAD, YAMUNA NAGAR

*Present :—*

Shri Raghubir Singh, for the workman.

Shri R. L. Gupta, for the management.

#### AWARD

Shri Mam Chand concerned workman was in the service of M/s Chanderpur Works, Radaur Road, Yamuna Nagar. The management dismissed him from service with effect from 14th May, 1972. Feeling aggrieved, he raised a dispute which was referred for adjudication to this court by the Governor of Haryana, by order No. ID/Amb/255-A-72/39515-19, dated 13th November, 1972, in exercise of the powers conferred by clause (c) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947, with the following term of reference.

"Whether the termination of services of Shri Mam Chand was justified and in order? If not, to what relief is he entitled?"

On receipt of the order of reference, the parties were called upon to put in their respective pleadings. The management contested the claim of the workman on merits pleading *inter alia* that the demand had not been properly raised. In this replication, the workman controverted the pleas raised by the management and reiterated claim for reinstatement and payment of back dues as earlier raised through the demand notice leading to the present reference.

The following two issues arose for determination in the case :—

- (1) Whether the demand was first raised on the management and rejected by it before the matter was taken up for conciliation ? If not, with what effect ?
- (2) Whether termination of services of Shri Mam Chand was justified and in order ? If not, to what relief is he entitled ?

The parties have led their evidence and the case was fixed for arguments. It is, however, not necessary to go into the issues and the merits of the case as an amicable settlement has been arrived at between the parties. Their statements have been recorded. According to the settlement, the workman concerned has been entitled to the payment of Rs 550 as compensation, in full and final settlement, of his entire claims including the right of reinstatement or re-employment and this payment has to be made to him along with his earned wages, wages in lieu of earned leave and amount of bonus as may be found due after verification of the records within a period of one month from today. The award is made accordingly. There shall be no order as to costs.

O. P. SHARMA,

Dated the 17th May, 1974.

Presiding Officer,  
Labour Court, Haryana, Rohtak.

No. 1292, dated 27th May, 1974

Forwarded (four copies) to the Secretary to Government, of Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

O. P. SHARMA,

Presiding Officer,  
Labour Court, Haryana, Rohtak.

No. 4854-4Lab-74/19578.—In pursuance of the provisions of section 17 of the Industries Disputes Act, 1947 (Act No. XV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Labour Court, Haryana, Rohtak, in respect of the dispute between the workmen and the management of M/s Frick India Ltd., Faridabad :—

BEFORE SHRI O. P. SHARMA, PRESIDING OFFICER, LABOUR COURT, HARYANA,  
ROHTAK

Reference No. 89 of 1972

Between

SHRI RAM PHAL AND THE MANAGEMENT OF M/S FRICK INDIA LTD.,  
FARIDABAD

Present :

Shri Darshan Singh, for the workman.

Shri S. L. Gupta, for the management.

#### AWARD

The management of M/s Frick India Ltd., Faridabad, terminated the services of its workman Shri Ram Phal with effect from 1st September, 1971. Feeling aggrieved, he raised a demand for reinstatement but without success. This gave rise to an industrial dispute.

On receipt of the failure report for the Conciliation Officer, the Governor of Haryana referred the above dispute for adjudication to this court, in exercise of the powers conferred by clause (c) of sub section (1) of section 10 of the Industrial Disputes Act, 1947, — vide order No. 1D/FD/324-C-71/3681, dated 2nd March, 1972, with the following term of reference.

"Whether the termination of services of Shri Ram Phal was justified and in order ? If not, to what relief is he entitled ?"

The parties put in their pleadings. The management contended that it was a case of self abandonment of service by the workman concerned and the demand had not been properly raised.



The following issues arose for determination in the case from the pleadings of the parties.

- (1) Whether the demand was first raised on the management and rejected by it before the matter was taken up for conciliation? If not, with what effect?
- (2) Whether it is a case of self abandonment of service by the workman concerned?
- (3) Whether the termination of services of Shri Ram Phal was justified and in order? If not, to what relief is he entitled?

It is, however, not necessary to go into the issues and the merits of the case as an amicable settlement has been arrived at between the parties. Their statements have been recorded. According to the settlement, the workman concerned has been entitled to 1½ months wages in addition to his legal dues including earned wages, leave wages and bonus. The amounts due have to be paid today. The workman has given up his right of reinstatement or re-employment.

The award is accordingly made entitling the workman to wages for 1½ months in addition to his legal dues earned wages, leave wages and bonus. The amounts due shall be paid to him today. He will not be entitled to the relief of reinstatement or re-employment which he has himself foregone in view of the above settlement. There shall be no order as to costs.

O. P. SHARMA,

Presiding Officer,  
Labour Court, Haryana,  
Rohtak.

Dated 24th May, 1974.

No. 1295, dated 27th May, 1974

Forwarded (four copies) to the Secretary to Government of Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

O. P. SHARMA,

Presiding Officer,  
Labour Court, Haryana,  
Rohtak.

No. 4855-4Lab-74/19581.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Labour Court, Haryana, Rohtak in respect of the dispute between the workman and the management of M/s Frick India Ltd, Faridabad.

**BEFORE SHRI O. P. SHARMA, PRESIDING OFFICER, LABOUR COURT, HARYANA, ROHTAK**

Reference No. 68 of 1972

between

**SHRI SUKH LAL AND THE MANAGEMENT OF M/S FRICK INDIA LTD., FARIDABAD**

Present :

Shri Darshan Singh, for the workman.

Shri S.L. Gupta, for the management.

#### AWARD

The management of M/s Frick India Ltd, Faridabad, terminated the services of its workman Shri Sukh Lal with effect from 5th November, 1971. Feeling aggrieved, he raised a demand for re-statement but without success. This gave rise to an industrial dispute.

On receipt of the failure report from the Conciliation Officer, the Governor of Haryana referred the above dispute for adjudication to this court in exercise of the powers conferred by clause (c) of sub-section (i) of section 10 of the Industrial Disputes Act, 1947, —vide order No. ID/FD/224-H-71/6036 dated 18th February, 1972 with the following term of reference:—

“Whether the termination of services of Shri Sukh Lal, was justified and in order? If not, to what relief is he entitled?

The parties put in their pleadings. The management contended that it was a case of self abandonment of service by the workman concerned and the demand had not been properly raised.

The following issues arose for determination in the case from the pleadings of the parties.

- (1) Whether the demand was first raised on the management and rejected by it before the matter was taken up for conciliation? If not with what effect?
- (2) Whether it is a case of self-abandonment of service by the concerned workman?
- (3) Whether the termination of service of Shri Sukh Lal was justified and in order? If not, to what relief is he entitled?

It is, however not necessary to go into the issues and the merits of the case as an amicable settlement has been arrived at between the parties. Their statements have been recorded. According to the settlement the workman concerned has been entitled to two months wages in addition to his legal dues including earned wages, leave wages and bonus. The amounts due have to be paid today. The workman has given up his right of reinstatement or re-employment.

The award is accordingly made entitling the workman to wages for 2 months in addition to his legal dues, earned wages, leave wages and bonus. The amounts due shall be paid to him today. He will not be entitled to the relief of reinstatement or re-employment which he has himself foregone in view of the above settlement. There shall be no order as to costs.

The 24th May, 1974.

O. P. SHARMA,  
Presiding Officer,  
Labour Court, Haryana,  
Rohtak.

No. 1296, dated 27th May, 1974.

Forwarded (four copies) to the Secretary to Government, of Haryana, Labour and Employment Departments, Chandigarh as required under section 15 of the Industrial Disputes Act, 1947.

O. P. SHARMA,  
Presiding Officer,  
Labour Court, Haryana,  
Rohtak.

No. 4863-4Lab-74/19583.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Labour Court, Haryana, Rohtak in respect of the dispute between the workman and the management of M/s Delhi Faridabad Textiles, Faridabad.

BEFORE SHRI O. P. SHARMA, PRESIDING OFFICER, LABOUR COURT, HARYANA,  
ROHTAK

Reference No. 171 of 1972  
between

SHRI BANKE LAL AND THE MANAGEMENT OF M/S DELHI FARIDABAD TEXTILES,  
FARIDABAD

Present :

Shri G. C. Nagpal, for the management.

Nemo, for the workman.

## AWARD

The management of M/s Delhi Faridabad Textiles, Faridabad terminated the services of its workman Shri Banke Lal. Feeling aggrieved he raised a dispute which was referred for adjudication to this court by order No. JD/FD/20115-119 dated 7th June, 1972 of the Governor of Haryana, in exercise of the powers conferred by clause (c) of sub-section (i) of Section 10 of the Industrial Disputes Act, 1947, with the following term of reference.

"Whether the termination of services of Shri Banke Lal was justified and in order? If not, to what relief is he entitled?"

The parties put in their respective pleas. It is however, not necessary to go into the merits of the case as Shri Banke Lal has settled his dispute with the management as per terms and conditions given in the memo andum of settlement dated 18th February, 1974 Ex. M. 1 which is signed by him and witnessed by his co-workers S/Shri Duija Ram and Devi Ram. Shri B. R. Jain, Factory Manager has signed it on behalf of the management. Shri Banke Lal has further addressed the application Ex. M. 2 to this court admitting the fact of the said settlement and receipt of his dues in full and final settlement of his entire claims against the management including the right of reinstatement or re-employment. According to him there is now no dispute left between the parties. Shri Darashan Singh General Secretary, Textile Mordoor Union, Faridabad who had been appearing on behalf of the workman concerned on some dates of hearing fixed in the case has stated that he has no instructions from the workman to proceed with the case.

In view of the above, the presumption is that the workman has in fact, settled his dispute and there is apparently, no reason to disbelieve the version of the management.

For the reasons aforesaid, no further proceedings are called for in the case and a no dispute award is given in terms of the settlement Ex. M. 1 read with the application of the workman concerned Ex. M. 2. There shall be no order as to costs.

Dated, the 21st May, 1974.

O. P. SHARMA,  
Presiding Officer,  
Labour Court, Haryana,  
Rohtak.

No. 1288, dated 27th May, 1974.

Forwarded (four copies) to the Secretary to Government, of Haryana, Labour and Employment Departments, Chandigarh as required under Section 15 of the Industrial Disputes Act, 1947.

O. P. SHARMA,  
Presiding Officer,  
Labour Court, Haryana,  
Rohtak.

No. 4851-4Lab-74/19584.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award given by the Presiding Officer Labour Court, Haryana Rohtak in respect of the dispute between the workman and the management of M/s Ametee Machine Tools (P) Ltd, Faridabad.

BEFORE SHRI O. P. SHARMA, PRESIDING OFFICER, LABOUR COURT, HARYANA ROHTAK

Reference No. 188 of 1972

between

SHRI BADRI NATH AND THE MANAGEMENT OF M/S AMETEE MACHINE TOOLS  
(P) LTD., FARIDABAD.

Present:

Shri Roshan Lal Sharma, for the workman.

Shri B. S. Sapra for the respondent.

## AWARD

Shri Badri Nath workman concerned was in the service of M/s Ametee Machine Tools (P) Ltd., Faridabad. The management terminated his services with effect from 16th March, 1972 allegedly without any notice or charge-sheet. He raised a demand for his reinstatement but without success. This gave rise to an industrial dispute. Demand notice was given to the Conciliation Officer and the conciliation also ended in failure.

On receipt of the failure report from the Conciliation Officer, the Governor of Haryana referred the above dispute for adjudication to this court, in exercise of the powers conferred by clause (c) of sub-section (i) of Section 10 of the Industrial Disputes Act, 1947,—vide order No. ID/FD/72/25641-45 dated 9th July, 1972, with the following term of reference.

“Whether the termination of services of Shri Badri Nath was justified and in order? If not, to what relief is he entitled?”

The parties were called upon to put in their respective pleadings which they did. It is however, not necessary to go into the merits of the case as an amicable settlement has been brought about, as stated by the authorised representatives of the parties, and the workman concerned has received his dues in full and final settlement of his entire claims against the management.—vide vouchers signed by him, copies Exhibits M. 1 and M. 2 on record which fact has been admitted by his authorised representative Shri Roshan Lal Sharma who had given the demand notice leading to the present reference.

In view of the above, no further proceedings are called for in the case and a no dispute award is given in terms of the above settlement holding that the workman concerned is not entitled to any other relief. In the circumstances, there shall be no order as to costs.

O. P. SHARMA,

Dated 20th May, 1974.

Presiding Officer,  
Labour Court, Haryana, Rohtak.

Endorsement No. 1291, dated 27th May, 1974.

Forwarded (four copies) to the Secretary to Government, of Haryana, Labour and Employment Departments, Chandigarh as required under-section 15 of the Industrial Disputes Act, 1947.

O. P. SHARMA.

Presiding Officer,  
Labour Court, Haryana, Rohtak.

No. 4862-4Lab-74/19587.—In pursuance of the provisions of Section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Labour Court, Haryana, Rohtak in respect of the dispute between the workmen and the management of M/s Panipat Cooperative Sugar Mills, Ltd. Panipat.

BEFORE SHRI O. P. SHARMA, PRESIDING OFFICER, LABOUR COURT, HARYANA ROHTAK

Reference No. 232 of 1971

between

Shri Sehdev Kumar and the management of M/s Panipat Cooperative Sugar Mills, Ltd., Panipat

Present

Shri Raghu Singh for the workman.

Shri R.L. Gupta and Surinder Kaushal for the management.

## AWARD

Shri Sehdev Kumar concerned workman was in the service of M/s Panipat Co-operative Sugar Mills Ltd., Panipat as an Accounts Clerk. His services were terminated by the management with effect from 2nd April, 1971. He raised a protest and demanded reinstatement with continuity of previous service and payment of back wages with the allegation that the termination of his services had been brought about without any just and reasonable ground while persons junior to him had been retained in service. There was no satisfactory response from the management. Feeling aggrieved, he raised a dispute which was referred for adjudication to this court.—vide order No. ID/KNL/13-A-71/34370-74, dated 28th November, 1971 of the Governor of Haryana, in exercise of the powers conferred by clause (c) of sub-section (i) of Section 10 of the Industrial Disputes Act 1947, with the following term of reference.

“Whether the termination of services of Shri Sehdev Kumar was justified and in order? If not, to what relief is he entitled?”

On receipt of the order of reference, usual notices were given to the parties. The management contested the claim of the workman on the ground that with a view to effect economy in the expenditure of Sugar Mills the Board of Directors had decided to re-organise the working of the various sections and after assessing the quantum of work in all the sections, it was decided to abolish the Share and Sugar Sales Sections and merge their work in other sections, as a result whereof, the clerical strength had to be reduced and the services of a number of Clerks including Shri Sehdev Kumar who was the junior most had been rendered surplus and they were, therefore, brought under retrenchment. It was further pleaded that the reference was barred by section 55 of the Punjab Co-operative Societies Act. The workman controverted the above plea raised on behalf of the management and challenged the order of termination of his services as being illegal on the sole ground that he was senior and persons junior to him had been retained in service.

The following two issues arose for determination in the case.

1. Whether the reference is barred under section 55 of the Punjab Co-operative Societies Act ?
2. Whether the persons junior to the applicant have been retained in the service and his retrenchment was not valid ?

The management has examined its office Superintendent Shri N.L. Batra M.W. 1 and reliance has also been placed upon documentary evidence consisting of the seniority list Exhibit M.W. 1/1, notice dated 30th January 1971 regarding abolition of the Share Sugar Sales Sections and retrenchment of the workmen including Shri Sehdev Kumar Exhibit M.W. 1/2, letter dated 16th January, 1971 written by Shri Sehdev Kumar to the management protesting against his retrenchment Exhibit M.W. 1/3, letter dated 3rd/8th April, 1971 written by the management to this workman informing him about his retrenchment with further direction that Mills quarter, store articles or official records if any in his charge should be handed over to the Section Incharge of the Stores or the next junior as the case might be Exhibit M.W. 1/4. Note of the General Manager dated 6th February, 1971 submitted to the Chairman of the Board of Directors for approval of the action of retrenchment taken against the workman who had been rendered surplus Exhibit M.W. 1/5. Exhibit M.W. 1/6 and M.W. 1/7 which are, in fact, copies of Exhibit M.W. 1/2 and M.W. 1/3 have been put to the witness in cross-examination on behalf of the workman. The workman concerned has made his own statement without relying upon any documentary evidence.

The case has been fully argued on both sides and I have given a thoughtful consideration to the material on record. The issues may be taken up separately.

*Issue No. 1.* Nothing worth consideration has been urged with regard to this issue and it has not been shown how the present reference is barred, by section 55 of the Punjab Co-operative Societies Act.

*Issue No. 2.* This is the main and the only issue that arises for determination in the case. As would be clear from the facts stated above, it is a case of retrenchment brought about by the management with a view to effect economy in the expenditure in the Sugar Mills. This ground can not obviously be challenged by the workman concerned. There is no dispute with regard to the payment of the retrenchment compensation, notice pay etc. The only point of controversy on behalf of the parties is on the question of the seniority claimed by the workman. According to him at least one workman Shri Gulab Singh was junior to him and he has been retained in service by ignoring the well settled principle of "Last come first go". From the facts brought on record by management including the seniority list Exhibit M.W. 1/1, it is established beyond any shadow of doubt that Shri Gulab Singh was definitely junior to Shri Sehdev Kumar but he has not been brought under retrenchment. The only justification given by the management in this behalf is that Shri Gulab Singh had been employed on a special job dealing with the Provident Fund Scheme and, therefore, he was not brought under retrenchment along with the other workman. I do not feel inclined to agree with this contention raised on behalf of the management. There is no denying the fact that the designation of both Shri Sehdev Kumar the present workman and Shri Gulab Singh was the same i.e. Accounts Clerk and they belonged to the same category of workmen in the Mills getting the same emoluments. It has not been shown how the aforesaid special work of dealing with the matters pertaining to the Provident Fund Scheme could not be assigned to Shri Sehdev Kumar. There is nothing on the record to indicate that Shri Gulab Singh had received any special training to deal with that work. He has not even been examined as a witness in the case.

So, taking into consideration the facts above which are more or less admitted, the termination of services of the present workman Shri Sehdev Kumar brought about in disregard to his right of seniority can not be held to be justified and in order.

That disposes of issue No. 2 and in the light of my above observations, I am quite clear in my mind that the management has failed to justify the termination of the services of the workman concerned by way of retrenchment and he is entitled to reinstatement with continuity of his previous service. He, has, however, made out no good case for the payment of back wages which relief has, in fact, been given up by him as per his own statement. The issue is, therefore, decided against the management and in favour of the workman holding that the termination of his services is not justified and in order and, in the result, he is entitled to reinstatement with continuity of previous service but without the payment of any back wages. The award is made accordingly. In the circumstances, there shall be no order as to costs.

Dated the 18th May, 1974.

O.P. SHARMA,  
Presiding Officer,  
Labour Court, Haryana,  
Rohtak.

No. 1290, dated 27th May, 1974

Forwarded four copies to the Secretary to Government of Haryana, Labour and Employment Departments, Chandigarh as required under section 15 of the Industrial Disputes Act, 1947.

O. P. SHARMA,

Presiding Officer,  
Labour Court, Haryana,  
Rohtak.

No 4722 4Lab 74/19602 — In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Labour Court, Haryana, Rohtak in respect of the dispute between the workman and the management of M/s Chatta Sain Foundry & Rolling Mills, Samalkha:—

BEFORE SHRI O. P. SHARMA, PRESIDING OFFICER, LABOUR COURT,  
HARYANA, ROHTAK

Reference No. 37 of 1973

*between*

SHRI RAJINDER KUMAR AND THE MANAGEMENT OF M/S CHATTAR SAIN FOUNDRY  
AND ROLLING MILLS, SAMALKHA.

*Present :*

Shri Rajinder Kumar, workman himself.

Shri Devki Nandan, for the management.

#### AWARD

Shri Rajinder Kumar was in the service of M/s Chatter Sain Foundry & Rolling Mills, Samalkha. His services were terminated by the management on 1st February, 1973. Feeling aggrieved, he raised a demand for reinstatement but there was no satisfactory response from the management. This gave rise to an industrial dispute.

On receipt of the failure report from the Conciliation Officer, the Governor of Haryana referred the above dispute for adjudication to this court.—*vide* order No. ID/KNL/157-B-73/ 9455-59, dated 6th June, 1973 in exercise of the powers conferred by clause (c) of sub-section (i) of Section 10 of the Industrial Disputes Act, 1947, with the following term of reference.

“Whether the termination of services of Shri Rajinder Kumar, was justified and in order? If not, to what relief is he entitled?”

The parties put in their pleadings. The workman reiterated his claim for reinstatement with the allegation that his services had been wrongfully terminated. The management contested his claim mainly on the ground that the present claimant was never in their employment.

It is, however, not necessary to go into the merits of case as Shri Rajinder Kumar has settled his dispute with the management outside the court and addressed an application dated 8th April, 1974. Exhibit W. 1 to this effect. His statement has also been recorded.

In view of the above a no-dispute award is given against the workman who has voluntarily withdrawn the dispute after arriving at an amicable settlement with the management. There shall be no order as to costs.

Dated 27th May, 1974.

O. P. SHARMA,

Presiding Officer,  
Labour Court, Haryana,  
Rohtak.

No. 1307, dated the 27th May, 1974.

Forwarded (four copies) to the Secretary to Government of Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

O. P. SHARMA,  
Presiding Officer,  
Labour Court, Haryana,  
Rohtak.